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cont.

2. (Amended) An isolated expression vector comprising a nucleic acid sequence encoding the amino acid sequence of SEQ ID NO:9.

RESPONSE

I. Restriction Requirement

The Examiner has determined that the original claims are directed to sixteen separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:1, classified in class 435, subclass 320.1;
- Group II: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:3, classified in class 435, subclass 320.1;
- Group III: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:5, classified in class 435, subclass 320.1;
- Group IV: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:8, classified in class 435, subclass 320.1;
- Group V: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:11, classified in class 435, subclass 320.1;
- Group VI: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:14, classified in class 435, subclass 320.1;
- Group VII: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:16, classified in class 435, subclass 320.1;
- Group VIII: Claim 1 (in part), said to be drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:19, classified in class 435, subclass 320.1;

- Group IX: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:2, classified in class 435, subclass 320.1;
- Group X: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:4, classified in class 435, subclass 320.1;
- Group XI: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:6, classified in class 435, subclass 320.1;
- Group XII: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:9, classified in class 435, subclass 320.1;
- Group XIII: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:12, classified in class 435, subclass 320.1;
- Group XIV: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:15, classified in class 435, subclass 320.1;
- Group XV: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:17, classified in class 435, subclass 320.1; and
- Group XVI: Claim 2 (in part), said to be drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:20, classified in class 435, subclass 320.1.

II. Response to Restriction Requirement

Applicants respectfully traverse the present Restriction Requirement, in that the nucleic acid sequences comprised in the expression vectors of claim 1 encode the amino acid sequences recited in claim 2. Specifically, SEQ ID NOS:2, 4, 6, 9, 12, 15, 17 and 20 are encoded by the nucleotide sequences of SEQ ID NOS:1, 3, 5, 8, 11, 14, 16 and 19, respectively. Since a specific nucleic acid sequence encoding a given amino acid sequence is a species of all of the nucleic acid sequences capable of encoding the given amino acid sequence, Applicants submit that the Group I and IX, II and X, III and XI, IV and XII, V and XIII, VI and XIV, VII and XV and VIII and XVI inventions, respectively, should be grouped together as genus and species. This was confirmed in a telephone

conference between Applicants' representative David Hibler and Examiner Li on Thursday, May 30, 2002.

Therefore, in response to the Restriction Requirement mailed May 7, 2002 (Paper No. 8), Applicants hereby elect with traverse to prosecute the claims of Group IV invention (Claim 1 (in part)), drawn to an expression vector comprising the nucleic acid sequence set forth in SEQ ID NO:8, classified in class 435, subclass 320.1. However, based on the foregoing arguments, and the telephone conference with Examiner Li, Applicants request that the Group XII invention (claim 2 (in part)), drawn to an expression vector comprising a nucleic acid sequence encoding the amino acid sequence set forth in SEQ ID NO:9, classified in class 435, subclass 320.1, be rejoined with the Group IV invention. Therefore, claims 1 and 2 have been amended to remove reference to the non-elected inventions, without prejudice and without disclaimer. Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

III. Status of the Claims

No claims have been cancelled. Claims 1 and 2 have been amended to remove reference to the Group I, II, III, V, VI, VII, VIII, IX, X, XI, XIII, XIV, XV and XVI inventions, respectively, without prejudice or disclaimer, as drawn to non-elected inventions. No new claims have been added.

Claims 1 and 2 are presently pending in the case. For the convenience of the Examiner, a clean copy of the pending claims is attached hereto as **Exhibit A**. In compliance with 37 C.F.R. § 1.121(c)(1)(ii), a marked up copy of the original claims is attached hereto as **Exhibit B**.

IV. Support for the Amended Claims

Claims 1 and 2 have been amended to remove reference to the non-elected inventions, without prejudice and without disclaimer.

It will be understood that no new matter is included within the amended claims.

V. Inventorship

In response to the Examiner's reminder that, upon election of claims in response to the Restriction Requirement, inventorship must be amended in compliance with 37 C.F.R. § 1.48(b)

(Action at page 4), Applicants note that amendment of inventorship does not require "a petition under 37 C.F.R. § 1.48(b) and by (*sic*) the fee required under 37 C.F.R. § 1.17(h)" (Action at page 4), but rather a request as set forth in 37 C.F.R. § 1.48(b)(1) and the processing fee as set forth in 37 C.F.R. § 1.17(i). Applicants therefore respectfully request amendment of the inventorship of the present application under 37 C.F.R. § 1.48(b)(1) in order to remove the inventors of the non-elected claims, since their invention is no longer being claimed in the present application as amended. The inventors *that are requested to be removed* as a result of the cancellation of the non-elected claims as a result of the response to the restriction requirement are Brenda Gerhardt, Brian Mathur, D. Wade Walke and C. Alexander Turner, Jr. The inventors of the remaining claims are, therefore, Carl Johan Friddle and Erin Hilbun. Therefore, as a result of this amendment, the inventors of the present application are Friddle and Hilbun.

As set forth under 37 C.F.R. § 1.48(b)(2), the Commissioner is hereby authorized to charge the fee required under 37 C.F.R. § 1.17(i) for this amendment and request to correct inventorship to Deposit Account No. 50-0892.

VI. Conclusion

The present document is a complete response to the Restriction and Species Election Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should Examiner Li have any questions or comments, or believe that certain amendments of the claims might serve to improve their clarity, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

June 3, 2002

Date

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